

As compared to other diol solvents, 1,2-hexanediol is especially effective as a coupling agent in antiperspirant compositions, especially those compositions that comprise a solid gellant and a volatile silicone solvent. The 1,2-hexanediol solvent is especially effective at coupling the solid gellant and the volatile silicone solvent into a single phase system.

Thus, Swaile teaches that 1,2-hexanediol helps dissolve the solid gellant in the volatile silicone to provide a "single phase" system. Obviously, Swaile considers a composition including an undissolved solid gellant in a silicone solvent to be a multiple phase system.

Swaile later discusses generally how his antiperspirant composition can be made; the phrase "multiple phase" appears in this general discussion (col. 15, lines 26-32):

As will be apparent to those skilled in the art, the particular method will be dependent upon the selection of the specific types and amounts of the components employed, as well as the final product form desired, e.g., liquids, sticks, soft solids, creams, lotions, single or multiple phase systems containing solid or dissolved antiperspirant active, suspensions or solutions, clear or translucent or opaque, etc.

Applicants underlined "single or multiple phase systems containing solid or dissolved antiperspirant active." This is the first, and only, time Swaile uses "multiple phase." It is used in conjunction with "single" phase and "solid or dissolved antiperspirant active." In context, "multiple phase" clearly is referring to a composition in which a vehicle includes a solid antiperspirant salt and thus has two phases -- the solid antiperspirant salt and the vehicle. This is consistent with Swaile's earlier use of "single phase" (solid gellant dissolved in silicone solvent) when discussing the benefits of 1,2-hexanediol.

Swaile describes 13 examples of antiperspirants. None of the examples include two distinct compositions.

The Examiner has taken an isolated use of "multiple phase" by Swaile and used it as a justification for reconstructing the composition covered by the pending claims from Swaile in combination with Shelton '879, or Banowski, or Henriksen. This approach is pure hindsight. Swaile never explains "multiple phase" -- the phrase is only used once. But in context the phrase plainly is referring to a composition in which an ingredient such as a solid gellant or solid antiperspirant salt does not dissolve in the vehicle. The phrase clearly does not refer to products that include two, separate compositions combined in a single container, as required by the pending claims. Swaile does not describe or suggest any antiperspirant product that includes two

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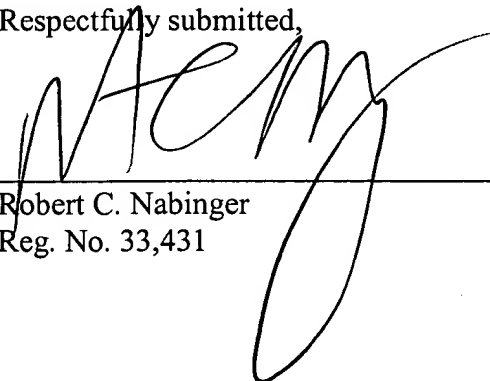
distinct compositions. This point is highlighted by the list of patents describing "suitable methods" for manufacturing Swaile's compositions (see col. 16, lines 3-10). None of the patents discloses a product including two compositions. In fact, Shelton '879, which does disclose an antiperspirant product including two separate compositions and is assigned to the same company as Swaile, is noticeably absent from the list.

Thus, Swaile does not suggest products including two separate compositions, and the 35 U.S.C. § 103(a) rejections should be withdrawn for this fundamental reason. The teachings of Shelton '879, Banowski, and Henriksen are irrelevant to this analysis. But in any event, Shelton '879, Banowski, and Henriksen disclose products that are substantially different from the use required by the claims. In fact, Shelton '789 and Banowski previously were used by the Examiner as a basis for rejecting various claims, but the Examiner has not maintained the prior rejections and thus agrees with applicants that the pending claims are patentably distinct from the products disclosed by Shelton '879 and Banowski. Henriksen is even more remove and describes a soap, not an antiperspirant composition.

For the above reasons, applicants request that the 35 U.S.C. § 103(a) rejection of the claims be withdrawn.

Enclosed is a \$1,020.00 check for the Petition for Extension of Time fee. Please apply any other charges or credits to deposit account 06-1050.

Respectfully submitted,



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